

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:11CR070
)	
Plaintiff,)	JUDGE DAVID D. DOWD
)	
-vs-)	
)	
RICHARD MICHAEL PERSA,)	<u>BRIEF IN OPPOSITION TO</u>
)	<u>DEFENDANT'S REQUEST FOR</u>
)	<u>VARIANCE</u>
Defendant.)	

Now comes the United States of America, by and through Steven M. Dettelbach, United States Attorney, and Phillip J. Tripi and Blas E. Serrano, Assistant United States Attorneys, and states its opposition to the defendant's request that a downward variance is appropriate in his case for the following reasons:

The defendant has filed a response to the presentence investigation report which contains a requested variance downward from the sentencing guidelines. Although the defendant points out certain disadvantages he presumably had while growing up, no arguments have been forwarded to suggest that the bank robberies committed by the defendant and his co-defendant warrant an adjustment. In fact, if anything, the circumstances of the commission of the bank

robberies and the arrest of the defendant would support sentencing at a higher range in the applicable sentencing guideline range. First, the defendant engaged in a series of five bank robberies, committing one of the bank robberies solo, each of which were apparently inspired by viewing the movie "The Town" and a need for the defendant and his co-defendant to fuel their cash supply for their heroin addictions. Second, it would appear from the confessions of the two defendants that Richard Persa may have served in the leadership role although probation has not awarded a two-level enhancement for role in the offense. Specifically, given that Persa had committed one of the bank robberies solo and was apprehended by the police after committing a second attempted solo robbery of the Subway down the street from where he lived, indicates that he probably had a leadership role with his cousin and co-defendant in planning and carrying out the robberies.

Third, the defendant and his co-defendant utilized notes that threatened harm to tellers and indicated possession of a gun. Although no firearms were found, it obviously raises the level of intimidation that was used and the adverse impact of emotional trauma on the tellers who were the subject of his robberies.

Fourth, the defendant is addicted to heroin according to his own admissions and poses a greater danger to the community due to the unfortunate combination of his heroin addiction, and his willingness to use violent criminal activity to secure funds to supply his habit.

Fifth, a review of the defendant's prior criminal history certainly does not suggest that he has been crime-free, or that he deserves a variance because of other family-related factors. The

United States would request the Court to sentence the defendant within the guidelines and believes that the guideline range sets a reasonable level and range of incarceration for the offenses that were committed by the defendant.

Respectfully submitted,
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United States Attorney

By: /s/ Phillip J. Tripi
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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2011, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to parties indicated on the electronic filing receipt. All other parties may access this filing through the Court's system.

s/ Phillip J. Tripi
Phillip J. Tripi
Assistant U.S. Attorney